

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES HEFTI,

Plaintiff,

-vs-

Case No. 14-C-729

BRUNK INDUSTRIES, Inc.,

Defendant.

DECISION AND ORDER

The plaintiff, James Hefti, moves to extend the discovery and dispositive motion deadlines set forth in the Court's Scheduling Order by one month each (from June 22 to July 22 and from July 24 to August 24, respectively). Federal Rule of Civil Procedure 16(b)(4) provides that a scheduling order can be modified upon a showing of good cause. The primary consideration in making a good-cause determination is the diligence of the party seeking the amendment. *Alioto v. Town of Lisbon*, 651 F.3d 715, 720 (7th Cir. 2011).

According to Hefti's counsel, the discovery sought by Hefti is "motivated by [Elizabeth] Weber's deposition testimony" and is "crucial" to his case because it is "related to what Defendant knew and what its animus was at the time it decided to terminate" Hefti. However, Hefti knew all along that Weber was a potential witness in this case. Indeed, the complaint specifically

mentions that Hefti returned his FMLA paperwork to Weber in the Human Resources Department. Moreover, Hefti listed Weber as a potential witness in his Rule 26 disclosures, and Hefti identified Weber as a person having relevant discoverable information during his own deposition. Accordingly, counsel for Hefti should have sought discovery from Weber much earlier in the discovery phase of this case.

Counsel for Hefti also implies that the deadlines should be extended because he assumed responsibility as lead counsel one month before the discovery deadline expired (and two months before the dispositive motion deadline). However, Hefti has been represented by the same law firm throughout the course of this litigation. Internal shuffling of lawyer assignments, standing alone, cannot establish good cause to modify a scheduling order.

Hefti's motion to amend/correct the scheduling order and to extend the discovery deadline [ECF No. 24] is **DENIED**.

Dated at Milwaukee, Wisconsin, this 7th day of July, 2015.

SO ORDERED:


HON. RUDOLPH T. RANDA
U.S. District Judge